



ADMINISTRATIVE POLICY

STATE OF WASHINGTON DEPARTMENT OF LABOR AND INDUSTRIES EMPLOYMENT STANDARDS

TITLE:	DEFINITION OF <u>FEE BASIS</u> IN ADMINISTRATIVE, PROFESSIONAL AND OUTSIDE SALES POSITIONS	NUMBER: ES.A.9.8
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CHAPTER:	RCW.49.46.010(5)(c) , RCW 49.46.130(2)(a) , WAC 296-128	SEE ALSO: ES.A.9.2 – 7, ES.A.8.1 and ES.A.8.2 , ES.A.9.1 , ES.A.10.1 , ES.A.10.2 and ES.A.10.3

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DEFINITION OF FEE BASIS

[WAC 296-128-520\(4\)\(b\)](#), [WAC 296-128-530\(5\)](#), and [WAC 296-128-540\(3\)](#)

1. Reliance On Pre-August 23, 2004 Federal Interpretation. Prior to August 23, 2004, state and federal “white collar” exempt regulations had many identical parts. On August 23, 2004, substantial changes were made to the federal regulations. The Department relies on the interpretations of the pre-August 23, 2004 regulations where identical.

2. Fee Basis. The requirements for exemption as an administrative, professional, or outside sales employee may be met by an employee who is compensated on a fee basis as well as by one who is paid on a salary basis.

A fee basis means a fixed charge for work performed. These arrangements are characterized by the payment of an agreed sum for a single job, regardless of the time required for its completion.

This is similar to piecework, but with the distinction that a fee payment is generally made for the kind of job that is unique rather than for a series of jobs that are repeated an indefinite number of times and for which payment on an identical basis is made over and over again.

3. Payments Not Considered a Fee Basis. Payments based on the number of hours or days worked and not on the accomplishment of a given single task are not considered payments on a fee basis.

4. Adequacy of a Fee Payment. Payment of fees of not less than \$250 per week to administrative and professional employees can ordinarily be determined only after the time worked on the job is known. In determining whether payment is at the rate specified in the regulations, the amount paid to the employee will be tested by reference to a standard workweek of 40 hours. Compliance will be tested in each case of a fee payment by determining whether the payment is at a rate, which would amount to at least \$250 per week.

There is no dollar amount established in the fee basis payment for the outside sales exemption. The amount of the fee compensation is based on the agreement between the employer and outside sales employee.

5. Salary Basis. See Administrative Policy [ES.A.9.1](#) for payment on a salary basis.